

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Aster Investments of Florida)	
	Steven P. Loflin ½ Interest)	
	Dist. 1, Map 35, Control Map 35, Parcel 2)	Johnson County
	Appalachian Realty Inc. et al.)	
	Dist. 1, Map 16, Control Map 16, Parcel 3)	
	Farm Property)	
	Tax Year 2006)	

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

Parcel 2

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$1,160,900	\$ -0-	\$1,160,900	\$ -
USE	\$ 349,100	\$ -0-	\$ 349,100	\$87,275

Parcel 3

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$221,400	\$ -0-	\$221,400	\$ -
USE	\$103,600	\$ -0-	\$103,600	\$25,900

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on October 17, 2006 in Mountain City, Tennessee. In attendance at the hearing were Paul Steven Loflin, the appellant, and Johnson County Property Assessor's representative B. C. Stout.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of an unimproved 829.24 acre tract (parcel 2) and an unimproved 246 acre tract (parcel 3) located on the Johnson County, Tennessee and Ashe County, North Carolina border.¹

The taxpayer contended that parcels 2 and 3 should be valued at \$400 per acre or \$331,700 and \$98,400 respectively. In support of this position, the taxpayer argued that he purchased a ½ interest in parcel 2 for \$437,500 or approximately \$400 per acre on June 16, 2005.

¹ Parcel 2 actually contains 1,104 acres. The remaining acreage is located in North Carolina.

The taxpayer asserted that the current appraisal of subject acreage does not adequately consider three factors which cause a significant diminution in value. First, neither parcel has a right-of-way or any legal access from any Tennessee road system nor any prospect thereof. According to Mr. Loflin, the only access to either parcel is via a 10' wide gravel road in North Carolina. Second, neither parcel has power or any other utilities. Third, in order to develop subject parcels a significant expenditure will be required for roads and utilities.

The assessor contended that parcels 2 and 3 should be valued at \$746,300 and \$221,400 respectively. In support of this position, Mr. Stout introduced comparable sales he maintained support a value of \$900 per acre. Accordingly, Mr. Stout recommended that the appraisal of parcel 2 be reduced from \$1,400 per acre to \$900 per acre. Given that parcel 3 is currently appraised at \$900 per acre, Mr. Stout asserted that no further adjustment is warranted.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued as contended by the assessor of property.

Since the taxpayer is appealing from the determination of the Johnson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the taxpayer's purchase summarized above cannot provide a basis of valuation for at least two reasons. First, Mr. Loflin testified that the property was never offered for sale on the open market. Second, the administrative judge finds that one sale does not necessarily establish market value. As observed by the Arkansas Supreme Court in *Tuthill v. Arkansas County Equalization Board*, 797, S. W. 2d 439, 441 (Ark. 1990):

Certainly, the current purchase price is an important criterion of market value, but it alone does not conclusively determine the market value. An unwary purchaser might pay more than market value for a piece of property, or a real bargain hunter might purchase a piece of property solely because he is getting it for less than market value, and one such isolated sale does not establish market value.

The administrative judge finds that this consideration is compounded by the fact the taxpayer purchased only a ½ interest.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

Parcel 2

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$746,300	\$ -0-	\$746,300	\$ -
USE	\$ 349,100	\$ -0-	\$ 349,100	\$87,275

Parcel 3

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$221,400	\$ -0-	\$221,400	\$ -
USE	\$103,600	\$ -0-	\$103,600	\$25,900


It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 3rd day of November, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Paul Steven Loflin
Clarence Howard, Assessor of Property